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Harmonix Music Systems, Inc.,
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7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 MICHAEL ANTONELLI, individually and on)
behalf of all others similarly situated,)

13)
14 Plaintiffs,)

15 vs.)

16 HARMONIX MUSIC SYSTEMS, INC.,)
VIACOM INC., and)
17 ELECTRONIC ARTS, INC.,)

18 Defendants.)
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Case No. CV 08 1445 SC

**AMENDED NOTICE OF MOTION TO
DISMISS COMPLAINT AND TO STRIKE**

Date: July 11, 2008

Time: 10:00 a.m.

Ctrm: 1

Judge: Hon. Samuel Conti

Complaint Filed: March 13, 2008

AMENDED NOTICE OF MOTION TO DISMISS COMPLAINT AND TO STRIKE

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on July 11, 2008, at 10:00 a.m. or as soon thereafter as the matter may be heard in the courtroom of the Honorable Samuel Conti, located at 450 Golden Gate Avenue, San Francisco, California, Courtroom 1, 17th Floor, defendants Harmonix Music Systems, Inc., Viacom Inc. and Electronic Arts Inc. (collectively, "Defendants") shall, and hereby do move pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure to dismiss the Class Action Complaint (the "Complaint") filed by plaintiff Michael Antonelli ("Plaintiff") on March 13, 2008, on the grounds that each of the four causes of action pleaded by Plaintiff fail to state a claim upon which relief can be granted against the Defendants; and pursuant to Rule 12(f) to strike Plaintiff's demand for monetary damages and proposed class definition, on the grounds that Plaintiff did not give Defendants the requisite thirty days notice of his claims under the Consumer Legal Remedies Act prior to filing a Complaint for damages and that Plaintiff's class definition does not comport with the standing requirements of Plaintiff's substantive causes of action.

The motion is based upon this Amended Notice of Motion; the Notice of Motion and Motion, Memorandum of Points and Authorities and Declaration of Richard Simon, all of which were filed with the Court and served on counsel on May 1, 2008; the pleadings and papers filed in this action; such oral argument as the Court may entertain; and such other matters as may be presented to the Court at or before the time of hearing.

Dated: May 5, 2008

IRELL & MANELLA LLP
Richard B. Kendall
Richard M. Simon

By: /s/ Richard M. Simon
Richard M. Simon
Attorneys for Defendants
Harmonix Music Systems, Inc.,
Viacom Inc. and Electronic Arts Inc.